

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

2311 RACING LLC d/b/a 23XI RACING, and  
FRONT ROW MOTORSPORTS, INC.,

Plaintiffs,

v.

NATIONAL ASSOCIATION FOR STOCK  
CAR AUTO RACING, LLC, NASCAR  
HOLDINGS, LLC, NASCAR EVENT  
MANAGEMENT, LLC, and JAMES FRANCE,

Defendants.

No. 3:24-cv-886-KDB-SCR

NASCAR EVENT MANAGEMENT, LLC,

Counter-Plaintiff,

v.

2311 RACING LLC d/b/a 23XI RACING,  
FRONT ROW MOTORSPORTS, INC., and  
CURTIS POLK,

Counter-Defendants.

**MOTION TO SEAL**

Pursuant to Local Rule 6.1, Plaintiffs and Counterclaim Defendants 2311 Racing LLC, d/b/a 23XI Racing, and Front Row Motorsports, Inc. respectfully move this Court for an order permitting them to file certain materials under seal. In support of this motion, Plaintiffs state as follows:

Following the Fourth Circuit's June 5, 2025 order vacating this Court's preliminary injunction (24-2245, No. 45) and subsequent denial of Plaintiffs' petition for *en banc* review (24-

2245, No. 49), Plaintiffs intend to file a motion for a temporary restraining order and for a preliminary injunction, which will include record evidence further supporting Plaintiffs' likelihood of success on the merits of their claims and additional evidence of the irreparable harm Plaintiffs will suffer if the requested relief is not granted. In support of Plaintiffs' motion for a temporary restraining order and for a preliminary injunction, Plaintiffs plan to file a memorandum of law and reply, along with the following documents:

1. Documents produced in this litigation with "Confidential" and "Highly Confidential – OCO" designations under the Stipulated Protective Order in this case (Dkt. 85), confidential communications, sensitive business information, and documents relating to sponsors, drivers, and other partners and contracts and other documents detailing Plaintiffs' sensitive business relationships. *See Jeld-Wen, Inc. v. MMG Mgmt. Consulting, Inc.*, 2017 U.S. Dist. LEXIS 21478, at \*5 n.1 (W.D.N.C. Feb. 15, 2017) (document "sealed to protect the parties' confidential, commercially sensitive, private and proprietary information") (internal quotations omitted). Accordingly, these documents should be sealed to avoid harming Plaintiffs' businesses and business relationships. *See, e.g., Whirlpool Props., Inc. v. Filters Fast, LLC*, 2019 WL 553452, at \*2 (W.D.N.C. Feb. 12, 2019) (granting motion to seal documents that contained "confidential and proprietary business information"); *Sound Sec., Inc. v. Sonitrol Corp.*, 2009 WL 1754790, at \*1 (W.D.N.C. June 18, 2009) (granting motion to seal "sensitive business information").

2. Plaintiffs also request leave to file under seal unredacted versions of their forthcoming memorandum of law and reply in support of their motion for preliminary injunction and a temporary restraining order. The redactions will be narrowly tailored to prevent public dissemination of NASCAR's and Plaintiffs' sensitive business information. To maintain the confidentiality of this information, the unredacted versions of Plaintiffs' memorandum of law and

reply in support of their motion for preliminary injunction and temporary restraining order should be sealed. *See, e.g., Norkunas v. HP Hospitality, LLC*, 2010 WL 3943924, at \*2 (W.D.N.C. Oct. 7, 2010); *Whirlpool Props.*, 2019 WL 553452, at \*2.

3. On July 10, 2025, Plaintiffs' counsel conferred with Defendants' counsel regarding the instant motion. On July 11, 2025, Defendants' counsel stated that Defendants consent to the filing of Discovery Materials designated by NASCAR as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – OCO" under seal and that Defendants take no position as to Discovery Materials designated as Protected Material by any other party or non-party under the Stipulated Protective Order.

Plaintiffs seek to have these documents filed under seal permanently or until deleted by the Court.

For the reasons stated above, Plaintiffs respectfully request the Court grant their motion to seal the following in connection with their motion for a temporary restraining order and preliminary injunction: (1) documents produced in this litigation with "Confidential" and "Highly Confidential – OCO" designations under the Stipulated Protective Order in this case; (2) confidential communications, sensitive business information, and documents relating to sponsors, drivers, and other partners and contracts and other documents detailing Plaintiffs' sensitive business relationships; and (3) unredacted versions of the forthcoming memorandum of law and reply in support of Plaintiffs' motion for a temporary restraining order and a preliminary injunction.

Dated: July 11, 2025

By: /s/ Jeffrey L. Kessler

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## CERTIFICATE OF COMPLIANCE

No artificial intelligence was employed in doing the research for the preparation of this document, with the exception of such artificial intelligence embedded in the standard on-line legal research sources Westlaw, Lexis, FastCase, and Bloomberg. Every statement and every citation to an authority in this document has been checked by an attorney in this case and/or a paralegal working at his/her direction (or the party making the filing if acting pro se) as to the accuracy of the proposition for which it is offered, and the citation to authority provided.

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## CERTIFICATE OF SERVICE

I hereby certify that the foregoing **MOTION TO SEAL** was electronically filed using the Court's CM/ECF system, which will automatically send notice of filing to all parties of record as follows:

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This the 11<sup>th</sup> day of July, 2025.

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